

Release
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**SUMMARY OF CASES ACCEPTED
DURING THE WEEK OF FEBRUARY 17, 1998**

[This news release is issued to inform the bar and the public of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#98-12 People v. Alvarez, S066488. (B103021.) Unpublished opinion. Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses.

#98-13 People v. Callihan, S066143. (B106805.) Unpublished opinion. Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses but remanded for resentencing.

#98-14 People v. Cotton, S066198. (C020644.) Unpublished opinion. Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses and remanded for resentencing.

Alvarez, Callihan, and Cotton all present issues, concerning the relationship between Penal Code sections 654 and 667(c)(6), similar to one before the court in People v. Deloza, S061929. (See #97-119.)

#98-15 Associated Builders & Contractors, Inc.v. Metropolitan Water Dist., S067485. (B109426; 59 Cal.App.4th 1503.) Petition for review after the Court of Appeal affirmed a judgment denying a petition for writ of mandate.

#98-16 Associated Builders & Contractors, Inc.v. San Francisco Airports Com., S066747. (A076022; 59 Cal.App.4th 25.) Petition for review after the Court of Appeal affirmed a judgment denying a petition for writ of mandate.

The two *Associated Builders* cases both present the question whether a public agency, in establishing bidding requirements for a public works project, may adopt a “project labor agreement” or “project stability agreement” that requires all contractors who wish to participate in the project to comply with a variety of labor conditions, or whether such agreements are inconsistent with charter or statutory requirements compelling the agency to award contracts to the lowest responsible bidder.

#98-17 California Teachers Assn. v. State of California, S067030. (C019678; 59 Cal.App.4th 516.) Petition for review after the Court of Appeal affirmed a judgment granting a petition for peremptory writ of mandate. This case concerns the constitutionality of a statute that requires a tenured teacher, who files an administrative appeal from a decision dismissing or suspending the teacher and loses, to pay half the costs of the administrative hearing. (See Ed. Code, §44944, subd. (e).)

#98-18 Cantine v. Jackson, S067044. (B109774.) Unpublished opinion. Petition for review after the Court of Appeal affirmed a judgment on the pleadings in a civil action. This case presents an issue, concerning whether a supervisory employee can be held personally liable under the Fair Employment and Housing Act for the discriminatory discharge of an employee, which is related to an issue before the court in Reno v. Baird, S065473. (See #97-194.)

#98-19 Kobzoff v. Los Angeles County Harbor/UCLA Medical Center S066874. (B099100; 59 Cal.App.4th 219.) Petition for review after the Court of Appeal affirmed the summary judgment but reversed an order awarding attorney fees in a civil action. This case presents issues concerning whether a defendant

who has prevailed on a dispositive motion in an action under the Tort Claims Act must show both a lack of reasonable cause and bad faith by the plaintiff to receive an award of attorney fees and, if so, the nature of the required bad faith. (See Gov. Code, § 856.2; Code Civ. Proc., §1038.)

#98-20 People v. Nelms, S066244. (F026754.) Unpublished opinion. Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents an issue, concerning whether a defendant may be convicted of theft when he takes merchandise from a store shelf and presents it to a clerk for exchange as returned merchandise and is allowed to complete the transaction even though store employees have detected the fraud, which is related to an issue before the court in People v. Davis, S062739. (See # 97-140.)

#98-21 People v. Williams, S066106. (H015048.) Unpublished opinion. Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. This case concerns whether a trial judge may remove, and replace with an alternate, a juror who states an intent not to apply a law with which he disagrees.

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